

REMARKS/ARGUMENTS

This is a response to the final Office Action dated January 6, 2011. Claims 1-12 were pending in the Office Action with claims 1, 9, 11 and 12 in independent form. By the present Amendment, Applicant has amended claims 1, 11 and 12. Claims 4-5 have been cancelled without prejudice or disclaimer. Claims 1-3 and 6-12 are presently pending.

Claim 1 has been objected to based on informalities. Specifically, the Examiner notes that the recitation “a first and second pair of film hinges each pair defining” should include a comma after the word “hinges.” Claim 1, as amended herein addresses this issue.

Claim 9 has been objected to based on informalities as well. In particular, the Examiner indicates that the recitation “spaced a distances s apart” on page 4, line 2 of claim 9 includes a typographical error. The Examiner is correct that this portion of claim 9 should recite “spaced a distance s apart.” Claim 9, as amended herein, corrects this minor error.

Claims 1-12 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 4,043,475 to Wheeler in view of U.S. Patent No. 6,041,477 to Rentsch et al. (hereinafter “Rentsch”). Applicant respectfully traverses this rejection.

Claim 1 has been amended herein to substantially include the subject matter of previous claims 4 and 5, which have been cancelled without prejudice or disclaimer.

Claim 1, as amended herein, now relates to a closure “moulded in closed position with a ring shaped body, the ring shaped body having an opening extending in an axial direction and having substantially the same diameter at both ends, comprising fixing means to fix the closure on a neck of a bottle, the fixing means having substantially the same diameter as the opening, and a lid, the lid having substantially the same diameter as the ring shaped body, the lid comprising a sealing means to seal an orifice of the bottle, the sealing means directly contacting the neck of the bottle, and a snap hinge comprising a first and a second trapezoid element and a first and second pair of film hinges, each pair defining a first and a second plane, the first and the second pair of film hinges connecting the first and the second trapezoid element to the lid and to the body, whereby the first and the second plane are arranged substantially parallel to an axis A of the closure and whereby an inner periphery of the film hinges and an inner periphery of the closure are configured such that they do not extend outward beyond a main inner radius R1 of the closure and whereby the inside of each film hinge is defined by a plane on the inside of the

closure and the outside of the film hinge is defined by two flat boundary planes arranged at an angle κ to each other, and a cylindrical boundary surface having a radius $R3$."

Support for this amended claim may be found at least in Figs. 1 and 7-9 of the present application. As can be seen in Fig. 1 of the present application reproduced below, for example, the film hinges 6 are arranged completely inside the outer contour of the lid 3 and body 2.

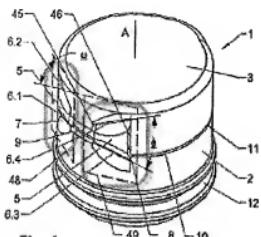
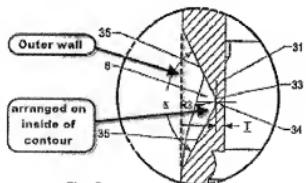


Fig. 1

This is also clearly visible in Figs 8-9. An annotated version of Fig. 9 is reproduced below. Specifically, Fig. 9 shows that the inner periphery of the film hinges 6 and the inner periphery of the lid are configured such that they do not protrude over a main inner radius R1 (See Fig. 8) of the closure. The inside of the film hinge 6 is defined by plane 31 on the inside of the closure and the outside of the film hinge is defined by two flat boundary planes 35 arranged at an angle κ with respect to each other and a cylindrical boundary surface 33 having a radius R3.



6

Fig. 9

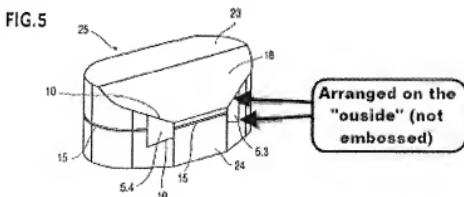
One of the advantages provided by the structure of the closure of claim 1, for example, of the present application, is that it provides a closure moulded in the closed position that includes a snap effect and has a larger opening angle. If the hinges were provided on the outside of the

closure, such a closure would not be possible. None of the references cited by the Examiner teach this advantage.

Further, none of the references cited by the Examiner show or suggest the film hinges of amended claim 1, for example, “an inner periphery of the film hinges and an inner periphery of the closure are configured such that they do not extend outward beyond a main inner radius R1 of the closure,” or that “the inside of each film hinge is defined by a plane on the inside of the closure and the outside of the film hinge is defined by two flat boundary planes arranged at an angle κ to each other, and a cylindrical boundary surface having a radius R3,” as is required by amended claim 1.

The Examiner argues that Wheeler discloses most of the features of claim 1, for example, of the present application. The Examiner concedes, however, that Wheeler does not disclose that the snap hinge comprises a first and second trapezoid element, or a second pair of film hinges defining a second plane. The Examiner argues, however, that Figs. 6-7 of Rentsch disclose these features and that it would have been obvious to modify Wheeler to include a trapezoid shaped element and to duplicate the number of elements taught by Rentsch to strengthen the hinge joint and achieve a preferred snapping movement of the hinge. Applicant respectfully disagrees.

Rentsch does not teach or disclose such features of amended claim 1 missing from Wheeler. The closure of Rentsch must be moulded in the open position, contrary to claim 1, which requires a closure “moulded in closed position.” Moreover, Rentsch does not disclose the film hinges of amended claim 1. The hinges in Rentsch must be arranged along the outside of the closure wall and not along the inside of the closure wall. As can be seen in the annotated Fig. 5 of Rentsch reproduced below, the hinges are on the outside surface of the closure.



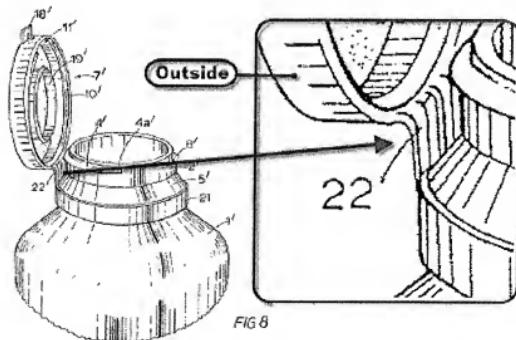
The Examiner has asserted that the combination of Wheeler and Rentsch discloses that film hinges 10, 11 and the inner periphery of the closure are designed such that they do not

protruded over a main inner radius. The Examiner appears to argue that the inner radius corresponds to the inside of the ring shaped body and also appears to argue that Fig. 7 of Wheeler supports this argument.

The Examiner also argues that the combination of Wheeler and Rentsch discloses film hinges 6 defined by a plane on the inside of the closure and the outside of the film hinges 10, 11 is defined by two flat boundary planes, allegedly shown in Fig. 5 of Rentsch, arranged at an angle to each other and a cylindrical boundary surface having a radius. The Examiner appears to argue that Fig. 8 of Wheeler discloses this feature. The Examiner is clearly incorrect. There is no support for the Examiner's contentions above in either Rentsch or Wheeler.

As noted above, the film hinges in Rentsch must be positioned on the outside surface of the closure. Thus, the inner periphery of the film hinges in Rentsch must protrude beyond the main inner radius of the closure.

Further, no element of the hinges of Rentsch are, or can be "defined by a plane on the inside of the closure," as required by amended claim 1. Further, a close inspection of Fig. 8 of Wheeler, as can be seen below, shows that the hinge web is arranged adjacent to the outer wall of the closure.



Thus, neither Rentsch nor Wheeler show or suggest that "an inner periphery of the film hinges and an inner periphery of the closure are configured such that they do not extend outward beyond a main inner radius R1 of the closure" or that "the inside of each film hinge is defined by

a plane on the inside of the closure and the outside of the film hinge is defined by two flat boundary planes arranged at an angle κ to each other, and a cylindrical boundary surface having a radius $R3$," as is required by amended claim 1 of the present application.

Accordingly, Applicant respectfully submits that claim 1, and the claims depending therefrom, are patentable over the cited art for at least the reasons described above.

Claims 11 and 12 have also been amended to specify that "an inner periphery of the film hinges and an inner periphery of the closure are configured such that they do not extend outward beyond a main inner radius $R1$ of the closure," and that "the inside of each film hinge is defined by a plane on the inside of the closure and the outside of the film hinge is defined by two flat boundary planes arranged at an angle κ to each other, and a cylindrical boundary surface having a radius $R3$."

Accordingly, Applicant respectfully submits that claims 11 and 12 are patentable over the cited art for at least the reasons described above.

In light of the remarks and amendments made herein, Applicant respectfully submits that claims 1-12 are patentable over the cited art and are in condition for allowance.

Favorable reconsideration of the present application is respectfully requested.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON May 6, 2011.

Respectfully submitted,


Keith J. Barkaus
Registration No.: 51,431
OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

DAM/KJB